Supreme Court, U.S.
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Case No. _____

In The
Supreme Court of the United States

October Term 1996

RICHARD ANTHONY RHEINSTROM

Petitioner,

v.

MARY ROBINSON, Administrator, Illinois Attorney Registration Discipline Commission, by virtue of the authority of the ILLINOIS SUPREME COURT

Respondents.

Petition For A Writ Of Certiorari
Appeal From Illinois State Supreme Court

PETITION FOR WRIT OF CERTIORARI

Richard Anthony Rheinstrom
6458 N. Sauganash
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38pp

QUESTIONS PRESENTED FOR REVIEW

A. Whether the Hearing Board of the Illinois Attorneys Registration and Disciplinary Commission properly concluded, from proceedings in which no complainants were present, that Attorney-Respondent engaged in misconduct, based strictly on hearsay evidence, in violation of its own rules barring such testimony.

B. Whether Attorney-Respondent, in said proceedings, had the right granted to every citizen by the "due process clause" of the Fifth Amendment of the Constitution of the United States, to face the complainants against him.

C. Whether the Hearing Board may discipline Attorney-Respondent for a visual reading error, when the original document was tendered to the Board, and where deceit was neither intended

or possible.

D. Whether the Illinois Supreme Court has the power to issue a money judgement against Attorney-Respondent, in favor of Attorney Registration and Discipline Commission, without giving notice of process or having a valid hearing, or in any way allowing Attorney-Respondent to defend himself against the amounts claimed.

E. Whether the Illinois Supreme Court, itself in violation of 42 U.S.C. sec. 1973, Voting Rights Act of 1965, can issue a valid determination on said Hearing. Based on the fact that Illinois Supreme Court judges are elected from grossly disproportionate districts, and that the same Court has refused to order a fair re-portioning of those districts since 1970.

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Respondents.

Petition For A Writ Of Certiorari
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PETITION FOR WRIT OF CERTIORARI

The Petitioner respectfully requests that a writ of certiorari issue to review the judgments and opinions in this case by the Illinois Supreme Court on January 23, 1996 and September 20, 1996.

OPINIONS BELOW

The January 23, 1996 and September 20, 1996 opinions of the Illinois Supreme Court are unreported and set forth in Appendix A at 12a-13a.

JURISDICTION

The appeal herein is made pursuant to 28 U.S.C. sect. 1257 and 1258. This petition for a writ of certiorari is taken from the opinions rendered by the Illinois Supreme Court, January 23, 1996 and September 20, 1996; this being an appeal from the highest court of the state.

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Petitioner is challenging two decisions by the Illinois Supreme Court made in total denial of Petitioner's right to "due process" guaranteed him by the Fifth Amendment of the Constitution of the United States.

STATEMENT OF THE CASE

This case arose from two "communications" to the IARDC in 1991: the first from Robert Martin; and the second from Amanda Williams. Both had been clients of the Attorney-Respondent; and both had allegedly suffered personal injuries in traffic accidents. The Martin case had been filed by the Attorney-Respondent in the Circuit Court of Cook County on May 9th 1986; the Williams case on June 24th 1985. In both cases the defendants had been served. In both cases the plaintiffs could produce no evidence of injury, either in the form of medical records or paid medical bills. Without this crucial documentation the Attorney-Respondent was

unable to responsibly pursue prosecution to judgement.

Approximately, one year after filing, both Mr. Martin and Amanda Williams, left the state without giving the Attorney-Respondent a forwarding address. Without a client able to help him proceeding to judgement was impossible. In the Amanda Williams case, her statement, in the complaint she made to the Commission states that she saw "some doctor in Oak Park". On this fact, how could any attorney obtain the required medical documentation. In addition, prior to the pre-trial conference, the Respondent-Attorney filed upon the Commission discovery for medical records, pursuant to Rule 214. That discovery was not complied with.

At the pre-trial hearing the Commission, by their representative Deborah Kennedy, stated that both clients would be produced at the hearing. At the hearing neither client was

produced and as a result the entire body of evidence presented was hearsay and the Attorney-Respondent was denied his right to confront and examine the witnesses against him, as guaranteed him by the "due process" clause of the Fifth Amendment of the Constitution of the United States.

In 1991 the Respondent-Attorney, at the request of the Commission was asked to furnish the correct case numbers and all underlying documents. The Attorney-Respondent furnished the half sheets and the entire case files. Both the half sheet and case numbers were correct and anyone reading that information could determine the status of the case. Later the Attorney-Respondent was charged with fraud for making false statement about one of the cases at a recorded deposition where the Attorney-Respondent was attempting to answer from memory, alas with error, without access to the case documents that he had already been submitted to the Commission.

Compliance to discovery under Commission Rules involves two parts: answering questions and furnishing correct documentation. The documentation furnished absolutely showed from the very beginning, in 1991, the correct status of the case. The Commission had an expressed duty to inform the Respondent-Attorney if he had made any error, and not to try to entrap him for mis-remembering a case file. At the hearing counsel for the Commission, Deborah Kennedy, identified a document as being an attorney retention agreement signed by Amanda Williams. When In fact the document did not contain the signature of Amanda Williams. This shows that human beings on both sides of this proceeding are subject to error.

REASON FOR GRANTING WRIT

Under the Fifth Amendment of the United States Constitution any citizen has a right to confront his accuser.

Without the presence of a live complainant the body of evidence becomes pure hearsay which is barred by Commission Rule 3.6(b)(6). When in fact the Commission conducted the whole proceeding against the Attorney-Respondent with the counsel for the Commission taking the place of the complaining witnesses. This is clearly a direct violation of the Rule 3.6(b)(6). The record clearly shows that the cases were properly filed and the respective defendants served. That the only thing standing in the way of obtaining judgements was the non-cooperation of both clients, who failed to provide any form of medical documentation and who left the state without leaving forwarding addresses approximately one year after the filing of their causes of action. By leaving the state without forwarding addresses they effectively abandoned any claim they might have had. Whereas the Commission alleges that an inadequate discovery was the sole reason for both cases not proceeding to judgement. This contention is totally unsupported by any basis in fact. The Commission may not dictate what type

of discovery should be done in any particular case. Discovery is governed by the facts needed to bring the case to a satisfactory conclusion.

The Commission has an expressed duty to prove every allegation in the complaint by proper evidence. This in fact was never done. Since hearsay can never be used in any manner, shape, or form.

The Voting Rights Act of 1965 mandated that the "one man one vote" rule apply to all elected officials. In the State of Illinois, where the population shifts have dramatic in the last thirty years, this Federal law has been intentionally ignored when it comes to reapportioning the judicial districts; where both the Legislature and the Courts have refused to re-district so as to reflect the true distribution of the population. The result of this inaction is that the Democratic Party has been given absolute control over the state's

Court system. And an illegally constituted Court lacks the power to determine anything. That the Illinois Supreme Court's affirmation of the administrative decision of the Illinois Attorney's Registration and Disciplinary Commission is to be held for naught.

"Due process" mandates that no *ex parte* judgement be issued against any defendant. Federal Rules require personal service of process and a full *denovo* hearing, before any court may issue a judgement. The action of the Illinois Supreme Court in issuing a fine, in favor of the administrative body, without a hearing, is illegal.

JUDICIAL AUTHORITIES

Although an administrative opinion would have a prima facie validity if upheld in a Court of Appeals, this does not relieve the Court of Appeals of the important duty to examine the evidence in an impartial manner and to set aside an order which

is unsupported in fact. *Oakdale Community Consolidated School District No. 1 v. County Board of School Trustees of Randolph County*, 12 Ill.2d 260, 139 N.E.2nd 795 (1956). The Administrative Review Act does not require judicial recognition of an agency decision that is against the manifest weight of the evidence. *City national Bank of Kankakee v. Shott*, 113 Ill.App.3d 388, 447 N.E.2d 478, 69 Ill. Dec. 261 (1983).

In order for a reviewing Court of Appeal to conclude that an agency decision is against the manifest weight of the evidence, the Court must conclude that all reasonable and unbiased persons acting within limits prescribed by law and drawing all inferences in support of the finding would agree that the finding is erroneous and that the opposite conclusion is clearly evident. It is not sufficient that there are mere conflicts in testimony or that opposite conclusions might be reasonable. Hahn v. Police Pension Fund of the City of Woodstock, 138 Ill.App.3d 206, 485 N.E.2d 871, 92

Ill. Dec. 825 (1985). There need only be some competent evidence in the record to support the Board findings.

On appeal the Appellate Court is not bound by any determination of law made by either the Trial Court or the administrative agency and will reverse a decision if it is legally erroneous. *Pepsi-Cola General Bottlers, Inc. v. Illinois Human Rights Commission*, 137 Ill.App.3d 288, 484 N.E.2d 538, 92, Ill.Dec. 23 (1985).

In *William MALLORY, et al. v. George C. EYRICK, et al.*, Defendants, 707 F.Supp. 947 (S.D. Ohio, 1989), the Federal Court of Appeals found judicial officers who were elected officials were subject to the Voting Acts of 1965, mandating that judicial Districts be set up based on one man one vote, and that judges were by no means exempt from the Voting Rights Act.

CONCLUSION

The "due process clause" of the Fifth Amendment to the Constitution of the United States mandates that any citizen has a right absolute to confront his accuser. Likewise the Illinois Supreme Court Rules of Evidence prohibit the use of hearsay evidence. It is impossible cross examine a half sheet or to rely on the unproven allegations of a complaint written on a piece of paper.

Discovery under the Commission Rules is two fold: on one hand oral statements are required; on the other hand the Attorney-Respondent has a duty to turn over all of his documentary information to the Commission. The documentary information tendered the exact status of every file, making fraud or misrepresentation an actual and factual impossibility.

With no complainants present at the hearing the

Commission's findings of misconduct are tainted, because the Attorney-Respondent was denied the right to face his accusers, as guaranteed in the Fifth Amendment. Without proper proof the findings of the Commission the Illinois Supreme Court must be reversed and held for naught.

APPENDIX A:

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:	)	
	)	
RICHARD RHEINSTROM	)	
	)	Commission No.
Attorney-Respondent	)	
	)	93 CH 449
No. 3123583	)	

REPORT AND RECOMMENDATION OF THE HEARING BOARD

The hearing in this matter was heard on October 19, 1994, at the offices of Attorney Registration and Disciplinary Commission at 130 East Randolph Drive, Suite 1100, Chicago, by a panel of the Hearing Board consisting of Charles T. Beckman, Chair, Melvin Gaines, lawyer member, and William E. Gabbard, public member. The Administrator was represented by Deborah Kennedy and Pamela Gracyalny. Respondent appeared pro se.

THE COMPLAINT

The Administrator filed a four-count First Amended Complaint against Respondent on June 1, 1994. The First Amended Complaint alleged that Respondent neglected two clients' personal injury cases, lied to the ARDC about the status of one of those cases, and then failed to respond to the ARDC's requests for further information. By engaging in such behavior, the Complaint alleged that the Respondent engaged in the following misconduct: neglecting legal matters, failing to seek the lawful objectives of clients, failing to carry out a contract of employment, prejudicing his clients, making false statements of material facts, failing to respond to a lawful demand for information of a disciplinary authority, and engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

THE ANSWER

The Administrator presented testimony of Respondent (adverse witness) and John William Stephenson. Respondent testified on his own behalf.

Respondent became licensed to practice law on April 26, 1979. Respondent has been a sole practitioner since becoming an attorney and has handled general civil and criminal matters. When Petition began practicing law, he focused primarily on divorce cases. Since 1988, however, he has mainly concentrated on probate matters. Respondent testified that he currently has approximately twenty open cases, one or two of which are personal injury cases. Respondent also testified that he works out of his home in Lincolnwood and doe not use a secretary. (Tr.22, 80-82, 87).

Respondent testified to the series of events that led to disciplinary charges being filed against him. In May 1986, Respondent agreed to represent Robert and Marilyn Martin in a personal injury case. The Martins were injured in a traffic accident while they were riding on a Chicago Transit Authority Bus. Respondent filed a complaint in the Circuit Court of Cook County on behalf of the Martins. Respondent, using a "standard form

complaint," alleged in the complaint that the Martins suffered from "bruises and contusions; were greatly injured, both externally and internally, and sustained various injuries and cuts on their faces; that they have in the past and will in the future suffer great pain from these said injuries...." After filing the complaint, Respondent failed to conduct any discovery, gather documents, interview witnesses, issue subpoenas, or even appear in court in connection with the matter. Respondent testified that he performed no further work on the Martins' case because the Martins had not provided him with paid medical bills pertaining to their injuries. (Tr.26-32, 70, 79, Admin. Exhs. 1,2).

When ARDC asked Respondent about his conduct concerning the Martins' case, Respondent wrote two letters to ARDC in 1991 claiming that he had obtained a judgement in the Martins' case on June 10, 1986, and that he was attempting to collect the judgment. At a deposition before the ARDC in September 1992, Respondent testified that he contacted a friend

at Trans World Credit Union to determine the viability of the judgement. At the hearing, Respondent admits his written and oral statements were false, but claims they were mistakes on his part, not an intent to lie. Respondent further testified that he could not have intended to lie, since he provided the ARDC with the Martins' case number. Access to the case number, Respondent testified, facilitated in pulling and reviewing the file. A review of the Martins' case file indicates no judgement was ever entered. (Tr.33-37, Admin. Exhs. 2,7,8).

In June 1985, Respondent agreed to represent Amanda Williams, Diane Howard, Carolyn Howard, and Willa Spivey in a personal injury suit. The four were allegedly injured in a traffic accident when the car they were in was hit by another car in a parking facility. Respondent filed a complaint in the Circuit Court of Cook County on behalf of the four. Respondent, again using a "standard form complaint," alleged in the complaint that the four women suffered from "bruises and contusions; Plaintiffs were

greatly injured, both externally and internally, and sustained various injuries and cuts on their faces; that they have in the past and will in future suffer great pain from these said injuries...." After filing the complaint, Respondent again failed to conduct any discovery, gather documents, interview witnesses, issue subpoenas, or even appear in court in connection with the matter. Respondent testified that he declined to obtain a copy of the police report because such reports never contain relevant information. Respondent testified that he performed no further work on the case because the four women had not provided him with paid medical bills pertaining to their injuries. (Tr.42-50, 70, 79, Admin. Exhs. 9,10).

John William Stephenson, a senior investigator with the ADRC, testified as to the difficulty of serving Respondent with a subpoena. A log that was maintained in connection with the attempts to serve Respondent show that fourteen attempts were made before Respondent was served. Stephenson testified on

one occasion he tried to approach Respondent as Respondent shoveled snow form his walkway but that Respondent hurried into the garage and closed the door. (Tr.55-60, Admin. Exh. 3).

The subpoena that was eventually served on Respondent commanded Respondent to appear at the offices of the ARDC and produce certain documents. Respondent did not appear and did not produce the requested documents. Respondent blamed his absence on severe diabetes, which causes Respondent to become sick and sometimes to forget. Respondent testified that he did eventually comply with the subpoena *duces tecum*. (Tr.53, 64, 71, Admin. Exh. 4).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

COUNT I

We find that the Administrator proved by clear and convincing evidence that Respondent failed to seek the lawful objectives of his client, failed to carry out a contract of employment, prejudiced his client, and neglected a legal matter.

COUNT II

We find that the Administrator proved by clear and convincing evident that Respondent made a statement of material fact which he knew or should have known was false and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

COUNT III

We find that the Administrator proved by clear and convincing evidence that Respondent failed to seek the lawful objectives of his client, failed to carry out a contract of employment, prejudiced his client, and neglected a legal matter.

COUNT IV

We find that the Administrator proved by clear and convincing evidence that Respondent failed to respond to a lawful demand for information from a disciplinary authority.

RECOMMENDATION

Respondent has been confronted by very serious charges of misconduct that include neglecting cases, making false statements, and failing to cooperate with the ARDC. At hearing, Respondent refuted none of the charges against him. Instead, he provided further support for the Administrator's allegation that Respondent is currently unfit to practice law.

We find that Respondent neglected two civil cases: the bus accident involving Robert and Marilyn Martin and the car accident case involving Amanda Williams, Diane Howard, Carolyn Howard, and Willa Spivey (the "Williams case"). When an attorney agrees to represent a client in a legal matter, he is obliged to seek the lawful objectives of the client and to do so in a diligent and competent manner. See In re Tepper, 126 Ill.2d 109, 124, 533 N.E.2d 838, 844 (1988); Ill. Rules of Prof. Conduct 134 Ill.2d R. 1.1, R 1.3. Respondent's conduct in these two cases, however, showed that he ignored those precepts. In fact, Respondent's behavior in these two cases provide textbook examples of how not

to manage a lawsuit. Respondent initiated the lawsuits by filing complaints in the Circuit Court of Cook County. The complaints alleged numerous types of physical injuries despite the fact that Respondent conducted no investigation of the facts other than speaking to his clients. After filing the complaints, Respondent did nothing. Respondent greatly prejudiced his clients by his own inaction. Neither the Martins nor the plaintiffs in the Williams case will be able to successfully prosecute their cases due to the great length of time that has elapsed.

Respondent's defense that he was obliged to do nothing since his clients did not provide him paid medical bills is entirely without merit. First, it is the lawyer's obligation to obtain evidence of his client's injuries, not the client's duty to provide it. At a minimum, if a lawyer believed his client was being uncooperative, the lawyer has a responsibility to formally withdraw from the case. Ill. Rules of Prof. Conduct 134 Ill. 2d R. 1.16(b)(1)(D); In re Abrose, 93 Ill. 2d 42, 46, 442 N.E.2d 900, 902 (1982). Second, it

is possible for a plaintiff to win damages without paid medical bills. For example, a trier of fact can award damages for pain and suffering, factors that are not normally accounted for on medical bills. See Cerveny v. American Family Ins. Co., 255 Ill. App. 3d 399, 407, 626 N.E.2d 1214, 1220 (1993); Schranz v. Halley, 128. App. 3d 125, 130, 469 N.E. 2d 1389, 1391 (1984).

Respondent also failed to comply with a subpoena *duces tecum* ordering him to appear before the ARDC and produce certain documents. Respondent offered mitigating evidence by claiming his severe diabetic condition caused him to forget the subpoena. We reject Respondent's claim since he offered no evidence that he has severe diabetes or that the disease causes memory loss. We also reject the Administrator's contention that difficulty in serving the Respondent is additional evidence of Respondent's failure to cooperate. We know of no rule that requires attorneys to make themselves available to be served subpoenas by the ARDC. While it is unfortunate that the ARDC

had to expend such energy and resources to serve Respondent, its difficulty is serving Respondent does not automatically mean that he has engaged in sanctionable conduct.

The most troubling aspect of Respondent's behavior is his consistent pattern of lying. Respondent lied when he told the ARDC that he obtained a judgment in the Martin's case. Respondent surely must have known that by taking no steps to bring the matter to judgment, it would be impossible to have obtained a judgment in the matter. For this reason, we believe, Respondent lied again at the hearing when he testified that he merely made a "mistake" in informing the ARDC that the Martins' case had been properly concluded. Lying before a tribunal is strong evidence of an unfitness to practice law. In re Vavrik, 117 Ill. 2d 408, 413, 512 N.E. 2d 1226, 1229 (1987). Lying is also one of the most serious acts of misconduct an attorney can commit. In a recent decision, the Supreme Court of Illinois suspended an attorney for three years and until after further order of the court for

falsifying information on a residential loan application and then neglecting to mention her misconduct on her application for admission to the Illinois bar. In re Chandler, No. 76145 (Ill. Aug. 4, 1994). Unlike Respondent in this case, Chandler did not prejudice clients or third parties by her actions or fail to comply with a subpoena.

Lengthy suspensions have been imposed for misconduct similar to Respondent's. See In re Guilford, 115 Ill. 2d 495, 505 N.E. 2d 342 (1987) (attorney suspended for two years for neglecting a case making misrepresentations to client and ARDC); In re Levin, 101 Ill. 2d 535, 463 N.E. 2d 715 (1984) (attorney suspended three years and until further order of the court for neglecting cases and misleading clients and third parties). There are also aggravating factors in this case that deserve attention. Respondent displayed a combative, hostile attitude at the hearing, frequently providing non-responsive answers to direct questions. Respondent showed remorse for his conduct. Instead, he chose

to blame his clients for any problems that arose in the cases. Moreover, Respondent gave no assurances that he would act differently if he were to accept another personal injury case. Respondent also showed a disturbing lack of knowledge in how to manage a personal injury case. Respondent admitted to drafting pleadings without performing any investigation of the facts, expressed disdain for ordinary discovery practices, and erroneously believed that a plaintiff's personal injury suit is invalid without paid medical bills.

For the foregoing reasons, we recommend that Respondent be suspended for three years and until further order of the court.

DATE: December 20, 1994

Charles T. Beckman, Chair

with Melvin Gaines and

William E. Gabbard concurring

APPENDIX B:

STATE OF ILLINOIS

SUPREME COURT

At the Term of the Supreme Court, begun and held in Springfield, on Monday, the eighth day of January, 1996.

Present: Michael A. Bilandic, Chief Justice

Justice Benjamin K. Miller Justice James D. Heiple

Justice Charles E. Freeman Justice Moses W. Harrison II

Justice Mary Ann G. McMorrow Justice John L. Nickels

On the 23rd day of January, 1996, the Supreme Court entered the following judgement:

In re:	)	
M.R. 11765	)	Atty. Reg. &
Richard Anthony Rheinstrom	)	Disc. Comm.
36 W. Randolph St.	)	93 CH 449
Chicago, IL 60602	)	

IT IS ORDERED that the petition by respondent Richard Anthony Rheinstrom for leave to file exceptions to the report and recommendation of the Review Board is denied. The report and recommendation of the Review Board is approved and confirmed, and respondent is suspended from the practice of law for three years and until further order Court.

As the Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, I certify that the foregoing is a true copy of the final order entered in this case.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Court this 23rd day of January, 1996.

Juliann Hornyak, Clerk
Supreme Court of the
State of Illinois

APPENDIX C:

STATE OF ILLINOIS

SUPREME COURT

At the Term of the Supreme Court, begun and held in Springfield, on Monday, the eighth day of January, 1996.

Present: Michael A. Bilandic, Chief Justice

Justice Benjamin K. Miller Justice James D. Heiple

Justice Charles E. Freeman Justice Moses W. Harrison II

Justice Mary Ann G. McMorrow Justice John L. Nickels

On the 20th day of September, 1996, the Supreme Court entered the following judgement:

In re:	)	
M.R. 11765	)	Atty. Reg. &
Richard Anthony Rheinstrom	)	Disc. Comm.
6458 North Sauganash	)	93 CH 449
Lincolnwood, IL 60646	)	

The petition by the Administrator of the Attorney Registration and Disciplinary Commission for costs pursuant to Supreme Court Rule 773 is allowed. Costs in the amount of $2,830.29 are assessed against Richard Anthony Rheinstrom, and he is directed to pay the costs in full to the Attorney Registration and Disciplinary Commission withing 30 days of the entry of this order.

Judgment in the amount of $2,830.29 is entered for the Attorney Registration and Disciplinary Commission and against Richard Anthony Rheinstrom.

As the Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, I certify that the foregoing is a true copy of the final order entered in this case.

IN WITNESS WHEREOF, I have hereunto subscribed my

name and affixed the Seal of said Court this 20th day of September, 1996.

Juliann Hornyak, Clerk

Supreme Court of the

State of Illinois